

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

WINNER DAWAN MATE,

Plaintiff,

vs.

**Case No.: 2:15-cv-2986
JUDGE GEORGE C. SMITH
Magistrate Judge Kemp**

**CAROLYN W. COLVIN,
ACTING COMMISSIONER
OF SOCIAL SECURITY, *et al.*,**

Defendants.

ORDER

On November 7, 2016, the United States Magistrate Judge issued a *Report and Recommendation* recommending that Plaintiff's Motion for a Guardian *ad litem* be denied and that Defendant's Motion to Dismiss be granted. (*See Report and Recommendation*, Doc. 19). This matter is now before the Court on Plaintiff's Objections to the Magistrate Judge's *Report and Recommendation*. (Doc. 20). Defendant has replied. The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

On May 1, 2013, Plaintiff was awarded a lump sum payment for social security disability benefits dating back to February of 2006. Plaintiff sought review of the lump sum benefits. The Social Security Administration determined that there was an overpayment of benefits in the amount of \$1,247 for time that Plaintiff was incarcerated and not entitled to his benefits. Plaintiff filed a request for waiver of overpayment recovery which was denied, and he also sought reconsideration of that decision, which was also denied. Plaintiff did not request a hearing and instead initiated this case.

Plaintiff is seeking review of his lump sum backpayment, as well as the overpayment waiver determination. He also seeks access to the Social Security office.

The Magistrate Judge concluded that Plaintiff must receive a final decision on his lump sum backpayment before bringing a case in this Court. Plaintiff's claim with Social Security was initially misplaced, but is now being processed by the Social Security Administration.

Plaintiff's objections are that the final decision requirement should be moot or waived because he had no other means of resolution of his claims until he brought this case. Further, he asserts that without intervention by this Court, the Social Security Administration would not have acted on his claim. He claims that Defendants committed neglect, injustice, criminal mischief without repercussion.

Plaintiff also objects regarding another motion he filed to move or consolidate with Case number 2010-cv-668. And he again argues that his motion for a guardian *ad litem* should be granted because he is incompetent. Finally, he argues that his civil rights have been violated by being denied access to the Social Security Administration. (*See generally* Doc. 20).

The Court has carefully considered all of Plaintiff's arguments in the responsive brief and in the Objections to the Magistrate Judge's *Report and Recommendation*. The Court agrees with the Magistrate Judge's analysis of the issues raised. For the reasons stated in the well-reasoned *Report and Recommendation*, this Court finds that Plaintiff's objections are without merit.

Based on the aforementioned and the detailed *Report and Recommendation*, the Court finds that Plaintiff's objections have been thoroughly considered. Accordingly, the *Report and Recommendation*, Document 19, is **ADOPTED** and **AFFIRMED**. Plaintiff's Objections are

hereby **OVERRULED**. Defendants' Motion to Dismiss is **GRANTED**. Plaintiff's Motion for a Guardian *ad litem* is **DENIED AS MOOT**.

The Clerk shall remove Documents 5, 17, 18 and 19 from the Court's pending motions list, and enter judgment in favor of Defendant, the Commissioner of Social Security.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT